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14 **UNITED STATES DISTRICT COURT**

15 **DISTRICT OF NEVADA**

16 TRAVELERS CASUALTY AND SURETY
COMPANY OF AMERICA, a Connecticut
17 corporation,

18 Plaintiff,

19 vs.

20 WILLIAMS BROTHER, INC., a Nevada
corporation; PEEK CONSTRUCTION
21 COMPANY, a Nevada corporation;
MICHAEL WILLIAMS, an individual;
22 JOSIE WILLIAMS, an individual;
ASHLEY WILLIAMS, an individual;
23 MARIA WILLIAMS, an individual;
MARK GUBLER, an individual; DAWNA
24 GUBLER, an individual; DARIN
GUBLER, an individual; and KAREN
25 GUBLER, an individual; BRENDA
COMPTON PEEK, an individual;
26 MICHAEL L. PEEK, an individual; ECCL
HOLDINGS, LLC, a Nevada limited
27 liability company; BLC NEVADA TRUST
DATED APRIL 20, 2006, a Nevada Trust,

28 Defendants.

Case No.: 2:12-cv-00058-LDG -RJJ

**NOTICE OF WITHDRAWAL OF
MOTION TO COMPEL
PRODUCTION – DOCKET 110**

1 WILLIAMS BROTHER, INC., a Nevada
2 corporation; PEEK CONSTRUCTION
3 COMPANY, a Nevada corporation,
4
5 Counterclaimants,
6
7 vs.
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9 TRAVELERS CASUALTY AND SURETY
10 COMPANY OF AMERICA, a Connecticut
11 corporation,
12
13 Counterdefendant.

14 Plaintiff TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA
15 ("Travelers") hereby withdraws its Motion to Compel (Docket 110) Tanner, LLC
16 ("Tanner"), Gibbs Trucking, LLC ("Gibbs"), and Ryder Construction, LLC ("Ryder")
17 (collectively, "Respondents") to comply with a subpoena duces tecum issued and served by
18 Travelers. The motion was based on boilerplate objections filed by Respondents to
19 Travelers' subpoena, which objections are not allowed by Rule 45 and unsupported by any
20 evidence.

21 Recently, counsel for Respondents produced a small amount of documents
22 responsive to the subpoena. Although Travelers does not believe that all responsive
23 documents have been produced, Respondents' counsel's representation is that all
24 responsive documents that exist have been produced. Travelers has scheduled a Rule
25 30(b)(6) deposition of one of the Respondents the afternoon of October 9, after the
26 scheduled hearing on the Motion to Compel (currently set for October 19, 2012, at 9:00 a.m.
27 before Magistrate Judge Robert J. Johnston). After that deposition, Travelers will have a
28 more clear idea of what documents may exist and whether all responsive documents have,
in fact, been produced.

Therefore, Travelers withdraws its motion to compel at this time and asks that the
hearing on that motion (Docket 110) be vacated. If, during the deposition, evidence of
additional documents not produced is discovered, counsel for Travelers will attempt to

1 work with counsel for Respondents to produce those documents. If no additional
2 responsive documents are discovered, the matter will be resolved.


3 DATED this 8th day of October, 2012.

4 JENNINGS, HAUG & CUNNINGHAM, L.L.P.

5
6 /s/ Chad L. Schexnayder
7 ELAN S. MIZRAHI, ESQ.
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17 IT IS SO ORDERED. Motion to Compel
18 [110] is withdrawn from consideration
19 by the court.

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21 .

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23 _____
24 UNITED STATES MAGISTRATE JUDGE
25 DATE: OCT. 11, 2012
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